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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,517	12/27/2001	Pu Zhou	12013/61601	9382
23838	7590	01/18/2007		
KENYON & KENYON LLP 1500 K STREET N.W. SUITE 700 WASHINGTON, DC 20005			EXAMINER SCHELL, LAURA C	
			ART UNIT	PAPER NUMBER
			3767	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/18/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/026,517	ZHOU, PU	
	Examiner	Art Unit	
	Laura C. Schell	3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1, 3-9, 11, 12 and 29-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 33 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what is meant in claim 33 when it is stated that "the first layer is within the second and third layer" and so on. It is not clear to the examiner how there can be three distinct layers present if each is within the other. As the examiner understands it, having distinct layers means to have layers one on top of the other, otherwise a layer within a layer would seem to indicate that they are not separate from each other.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Berg et al. (US Patent No. 5,911,715). Berg discloses a medical catheter system (Fig. 5)

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comprising: a first catheter (11) having an entrance orifice (near 30) an exit orifice (near 20), a channel connecting the entrance orifice and the exit orifice (in 11), a wall (11) surrounding the channel, the hardness of the wall surrounding the channel, when considered from an initial reference point at the entrance orifice and traveling towards the exit orifice, regardless of the orientation of the wall, decreasing in hardness in a first distinct region then increasing in hardness in a second distinct region and then decreasing in hardness again in a third distinct region, the hardness of the third region being different than the hardness of the first region (col. 6, lines 33-40 disclose that the catheter main shaft (11) can be made of a hard material with regions (22) made of softer material. Therefore starting near (28) there would be a region of the main shaft decreasing in hardness. This region decreases from the hard material of 11 that then transitions to the softer material of 22, thus creating a decreasing hardness region. Then there is a region of increasing hardness, starting at the distal edge of 22 (closest to 26) and including the beginning edge of the harder main shaft again (11/26), thus creating a region of increased hardness. Then finally there is a region of decreased hardness again, beginning at the hard main shaft (near the distal end of 26) and including the proximal portion of softer 22, thus creating a region of decreased hardness), and a second catheter (Fig. 9, 52) within the first catheter, the first catheter (in Fig. 9 the first catheter is 54) sized to allow the second catheter to move within it, the second catheter having a steerable distal portion (near 53).

***Allowable Subject Matter***

Claims 3-8, 30-32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 9, 11, 12 and 29 are allowed. These claims are allowable as the subject matter not previously found or disclosed in the prior art is a curve memory catheter with flushing orifices and flushing line around the catheter and further including a first wall with three different layers, each layer having a different hardness.

***Response to Arguments***

Applicant's arguments with respect to claims 1, 3-8 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Schell whose telephone number is (571) 272-7881. The examiner can normally be reached on Monday-Friday 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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KEVIN C. SIRMONS  
SUPERVISORY PATENT EXAMINER

